

any rights in him, which may be necessary for the protection of the irrigation interests.

PART 3820—AREAS SUBJECT TO SPECIAL MINING LAWS

Subpart 3821—O and C Lands

Sec.

3821.0–3 Authority.

3821.1 General provisions.

3821.2 Requirements for filing notices of locations of claims; descriptions.

3821.3 Requirement for filing statements of assessment work.

3821.4 Restriction on use of timber; application for such use.

3821.5 Application for final certificates and patents.

Subpart 3822—Lands Patented Under the Alaska Public Sale Act

3822.1 Subject to mining location.

3822.2 Compensation to surface rights holder.

Subpart 3823—Prospecting, Mineral Locations, and Mineral Patents Within National Forest Wilderness

3823.0–1 Purpose.

3823.0–5 Definition.

3823.1 Prospecting within National Forest Wilderness for the purpose of gathering information about mineral resources.

3823.2 Mineral locations within National Forest Wilderness.

3823.3 Mineral patents within National Forest Wilderness.

3823.4 Withdrawal from operation of the mining laws.

Subpart 3824—City of Prescott, Arizona, Watershed

3824.1 Mining locations.

Subpart 3825—Papago Indian Reservation, Arizona

3825.0–3 Authority.

3825.1 Mining locations in Papago Indian Reservation in Arizona.

Subparts 3826–3827 [Reserved]

AUTHORITY: 30 U.S.C. 22 *et seq.*; 43 U.S.C. 1201 and 1740.

Subpart 3821—O and C Lands

SOURCE: 35 FR 9745, June 13, 1970, unless otherwise noted.

§ 3821.0–3 Authority.

The authorities for the regulations in this subpart are the Act of April 8, 1948 (62 Stat. 162); Section 314 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744); and the Act of August 10, 1993 (30 U.S.C. 28f-k, 107 Stat. 405).

[59 FR 44857, Aug. 30, 1994]

§ 3821.1 General provisions.

(a) The Act of April 8, 1948 (62 Stat. 162) reopens the revested Oregon and California Railroad and Reconveyed Coos Bay Wagon Road Grant Lands (hereinafter referred to in this section as the O. and C. lands) in Oregon, except power sites, to exploration, location, entry, and disposition under the United States Mining Laws. The Act also validates mineral claims, if otherwise valid, located on the O. and C. lands during the period from August 28, 1937 to April 8, 1948.

(b) The procedure in the locating of mining claims, performance of annual labor, and the prosecution of mineral patent proceedings in connection with O. and C. lands is the same as provided by the United States Mining Laws and the general regulations in this part, and is also subject to the additional conditions and requirements hereinafter set forth.

§ 3821.2 Requirements for filing notices of locations of claims; descriptions.

The owner of any unpatented mining claim, mill site, or tunnel site located on land described in § 3821.1 shall file all notices or certificates of location, amended notices or certificates, and transfers of interest in the proper State Office of the Bureau of Land Management pursuant to §§ 3833.1, 3833.3, 3833.4, and 3833.5 of this title and shall pay the applicable maintenance, location, and service fees required by subpart 3833 of this title. The notice or certificate of location, or amendment thereto, shall be marked by the owner as being filed under the Act of April 8, 1948, and, if located on powersite lands, also the Act of August 11, 1955, as prescribed by §§ 3734.1 and 3833.5 of this title.

[59 FR 44857, Aug. 30, 1994]

§ 3821.3 Requirement for filing statements of assessment work.

The owner of an unpatented mining claim, mill site, or tunnel site located on O and C lands shall perform and record proof of annual assessment work, or pay an annual maintenance fee of \$100 per unpatented mining claim, mill site, or tunnel site, pursuant to subpart 3833 of this title.

[59 FR 44857, Aug. 30, 1994]

§ 3821.4 Restriction on use of timber; application for such use.

The owner of any unpatented mining claim located upon O. and C. lands on or after August 28, 1937, shall not acquire title, possessory or otherwise, to the timber, now or hereafter growing upon such claim. Such timber may be managed and disposed of under existing law or as may be provided by subsequent law. The owner of such unpatented mining claim, until such time as the timber is otherwise disposed of by the United States, if he wishes to cut and use so much of the timber upon his claim as may be necessary in the development and operation of his mine, shall file a written application with the district forester for permission to do so. The application shall set forth the estimated quantity and kind of timber desired and the use to which it will be put. The applicant shall not cut any of the timber prior to the approval of the application therefor.

§ 3821.5 Applications for final certificates and patents.

Applications for patents and final certificates in connection with mining claims located upon O. and C. lands on or after August 28, 1937 must be noted "Mining claims on O. and C. lands, under the Act of April 8, 1948." All patents issued on such claims located on or after August 28, 1937, shall contain an appropriate reference to the Act of April 8, 1948, and shall indicate that the patent is issued subject to the conditions and limitations of the Act.

Subpart 3822—Lands Patented Under the Alaska Public Sale Act**§ 3822.1 Subject to mining location.**

Lands segregated for classification or sold under the Alaska Public Sale Act of August 30, 1949 (63 Stat. 679, 48 U.S.C. 364a-364e) are subject to mining location, under the provision of section 3 of that Act for the development of the reserved minerals under applicable law, including the United States mining laws, and subject to the rules and regulations of the Secretary of the Interior necessary to provide protection and compensation for damages from mining activities to the surface and improvements thereon. Such mining locations are subject to the applicable general regulations in Group 3800 and to the additional conditions and requirements in § 2771.6-2 of this chapter.

[35 FR 9746, June 13, 1970]

§ 3822.2 Compensation to surface rights holder.

Any party who obtains the right, whether by license, permit, lease, or location, to prospect for, mine, or remove the minerals after the land shall have been segregated or disposed of under the Act, will be required to compensate the holder of the surface rights for any damages that may be caused to the value of the land and to the tangible improvements thereon by such mining operations or prospecting, and may be required by an authorized officer, as to mining claims, or by the terms of the mineral license, permit or lease, to post a surety bond not to exceed \$20,000 in amount to protect the surface owner against such damage, prior to the commencement of mining operations.

[35 FR 9746, June 13, 1970]

Subpart 3823—Prospecting, Mineral Locations, and Mineral Patents Within National Forest Wilderness

SOURCE: 35 FR 9746, June 13, 1970, unless otherwise noted.

§ 3823.0-3 Purpose.

This subpart sets forth procedures to be followed by persons wishing to prospect on lands within National Forest Wilderness, and special provisions pertaining to mineral locations and mineral patents within National Forest Wilderness.

§ 3823.0-5 Definition.

As used in this subpart the term *National Forest Wilderness* means an area or part of an area of National Forest lands designated by the Wilderness Act as a wilderness area within the National Wilderness Preservation System.

§ 3823.1 Prospecting within National Forest Wilderness for the purpose of gathering information about mineral resources.

(a) The provisions of the Wilderness Act do not prevent any activity, including prospecting, within National Forest Wilderness for the purpose of gathering information about mineral or other resources if such activity is conducted in a manner compatible with the preservation of the wilderness environment. While information gathered by prospecting concerning mineral resources within National Forest Wilderness may be utilized in connection with the location of valuable mineral deposits which may be discovered through such activity and which may be open to such location, attention is directed to the fact that no claim may be located after midnight, December 31, 1983, and no valid discovery may be made after that time on any location purportedly made before that time.

(b) All persons wishing to carry on any activity, including prospecting, for the purpose of gathering information about mineral or other resources on lands within National Forest Wilderness should make inquiry of the officer in charge of the National Forest in which the lands are located concerning the regulations of the Secretary of Agriculture governing surface use of the lands for such activity.

§ 3823.2 Mineral locations within National Forest Wilderness.

(a) Until midnight, December 31, 1983, the mining laws of the United States

and the regulations of this chapter pertaining thereto, including any amendments thereto effective during such period, shall to the same extent as applicable before September 3, 1964, extend to National Forest Wilderness, subject to the provisions of such regulations as may be prescribed by the Secretary of Agriculture pursuant to section 4(d)(3) of the Wilderness Act.

(b) All mineral locations established after September 3, 1964, and lying within the National Forest Wilderness, shall be held and used solely for mining or processing operations and uses incident thereto, and such locations shall carry with them no rights in excess of those rights which may be patented under the provisions of § 3823.3 of this chapter.

(c) All persons wishing to carry on any activity under the mining laws on lands within National Forest Wilderness, on or after September 3, 1964, should make inquiry of the officer in charge of the National Forest in which the lands are located concerning the regulations of the Secretary of Agriculture governing activities to be performed thereon in connection with the locations of mining claims.

§ 3823.3 Mineral patents within National Forest Wilderness.

(a) Each patent issued under the U.S. mining laws for mineral locations established after September 3, 1964, or validated by discovery of minerals occurring after September 3, 1964, and lying within National Forest Wilderness shall, in accordance with the provisions of section 4(d)(3) of the Wilderness Act:

(1) Convey title to the mineral deposits within the patented lands, together with the right to cut and use so much of the mature timber therefrom as may be needed in the extraction, removal, and beneficiation of the mineral deposits, if needed timber is not otherwise reasonably available, and if the timber is cut under sound principles of forest management as defined by the National Forest rules and regulations;

(2) Reserve to the United States all title in or to the surface of the lands and products thereof; and

(3) Provide that no use of the surface of the patented lands or the resources

Bureau of Land Management, Interior

§ 3825.1

therefrom not reasonably required for carrying on mining or prospecting shall be allowed except as expressly provided in the Wilderness Act.

(b) Each patent to which the provisions of this section are applicable shall contain the express condition that the use of the patented lands shall be subject to regulations prescribed by the Secretary of Agriculture as referred to in §3823.2 of this subpart and that the patented lands shall be held open for reasonable inspection by authorized officers of the U.S. Government for the purpose of observing compliance with the provisions thereof.

§ 3823.4 Withdrawal from operation of the mining laws.

Effective at midnight, December 31, 1983, subject to valid rights then existing, the minerals in lands within National Forest Wilderness are withdrawn from the operation of the mining laws by virtue of the provisions of section 4(d)(3) of the Wilderness Act.

Subpart 3824—City of Prescott, Arizona, Watershed

§ 3824.1 Mining locations.

(a) The Act of January 19, 1933 (47 Stat. 771; 16 U.S.C. 482a) applies to approximately 3,600 acres in the city of Prescott municipal watershed, within the Prescott National Forest, Arizona. Rights acquired under mining locations made after the date of the act on any of the described lands are limited to the right to occupy and use so much of the surface of the land covered by the location as is reasonably necessary to carry on prospecting and mining, including the taking of mineral deposits and timber required by or in the mining operations; and patents for such locations shall convey title to the mineral deposits and a limited right to cut and remove timber for mining purposes, such patent to reserve to the United States all title in or to the surface of the lands and products thereof.

(b) The authorized officer will note on the face of all applications for patent for mining claims embracing any of the described lands that the same are subject to the conditions, provisions, limitations, and reservations of the Act except applications for claims lo-

cated prior to the date of the act and as to which the applicants expressly request patent under the provisions of the general mining laws. Patents issued subject to the act will contain appropriate conditions with respect to cutting of timber and reservation of surface in the United States.

(c) Under section 3 of the Act (47 Stat. 771; 16 U.S.C. 482a), valid claims existing at the date of the act and thereafter maintained may be perfected under this act or under the law under which they were initiated, as the claimant may desire. Such claimant may, therefore, continue the development of his claim under the provisions of the act and secure patent for the mineral deposits only under its provisions, or he may continue to hold under the general mining laws and secure patent which will convey to him the surface as well as the minerals in the claim.

[35 FR 9746, June 13, 1970]

Subpart 3825—Papago Indian Reservation, Arizona

§ 3825.0-3 Authority.

(a) The Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 461-479), as amended by the Act of August 28, 1937 (50 Stat. 862; 25 U.S.C. 463), revokes departmental order of October 28, 1932, which temporarily withdrew from all forms of mineral entry or claim the lands within the Papago Indian Reservation and restores, as of June 18, 1934, such lands to exploration, location and purchase under the existing mining laws of the United States.

(b) The regulations in this part apply to entries made prior to May 27, 1955. By virtue of the Act of May 27, 1955 (69 Stat. 67; 25 U.S.C. 463) mineral entries may no longer be made within the Papago Indian Reservation.

[35 FR 9747, June 13, 1970]

§ 3825.1 Mining locations in Papago Indian Reservation in Arizona.

(a) The procedure in the location of mining claims, performance of annual labor and the prosecution of patent proceedings therefor shall be the same as provided by the United States mining laws and regulations thereunder,

with the additional requirements prescribed in this section.

(b) In addition to complying with the existing laws and regulations governing the recording of mining locations with the proper local recording officer, the locator of a mining claim within the Papago Indian Reservation shall furnish to the superintendent or other officer in charge of the reservation, within 90 days of such location, a copy of the location notice, together with a sum amounting to 5 cents for each acre and 5 cents for each fractional part of an acre embraced in the location for deposit with the Treasury of the United States to the credit of the Papago Tribe as yearly rental. Failure to make the required annual rental payment in advance each year until an application for patent has been filed for the claim shall be deemed sufficient grounds for invalidating the claim. The payment of annual rental must be made to the superintendent or other officer in charge of the reservation each year on or prior to the anniversary date of the mining location.

(c) Where a mining claim is located within the reservation, the locator shall pay to the superintendent or other officer in charge of the reservation damages for the loss of any improvements on the land in such a sum as may be determined by the Secretary of the Interior to be a fair and reasonable value of such improvements, for the credit of the owner thereof. The value of such improvements may be fixed by the Commissioner, Bureau of Indian Affairs, with the approval of the Secretary of the Interior, and payment in accordance with such determination shall be made within 1 year from date thereof.

(d) At the time of filing with the manager an application for mineral patent for lands within the Papago Indian Reservation the applicant shall furnish, in addition to the showing required under the general mining laws, a statement from the superintendent or other officer in charge of the reservation, that he has deposited with the proper official in charge of the reservation for deposit in the Treasury of the United States to the credit of the Papago Tribe a sum equal to \$1 for

each acre and \$1 for each fractional part of an acre embraced in the application for patent in lieu of annual rental, together with a statement from the superintendent or other officer in charge of the reservation that the annual rentals have been paid each year and that damages for loss of improvements, if any, have been paid.

(e) The Act provides that in case patent is not acquired the sum deposited in lieu of annual rentals shall be refunded. Where patent is not acquired, such sums due as annual rentals but not paid during the period of patent application shall be deducted from the sum deposited in lieu of annual rental. Applications for refund shall be filed in the office of the manager and should follow the general procedure in applications for repayment.

(f) Water reservoirs, charcos, water holes, springs, wells, or any other form of water development by the United States or the Papago Indians shall not be used for mining purposes under the terms of the said Act of August 28, 1937, except under permit from the Secretary of the Interior approved by the Papago Indian Council.

(g) A mining location may not be located on any portion of a 10 acre legal subdivision containing water reservoirs, charcos, water holes, springs, wells or any other form of water development by the United States or the Papago Indians except under a permit from the Secretary of the Interior approved by the Papago Indian Council which permit shall contain such stipulations, restrictions, and limitations regarding the use of the land for mining purposes as may be deemed necessary and proper to permit the free use of the water thereon by the United States or the Papago Indians.

(h) The term *locator* wherever used in this section shall include and mean his successors, assigns, grantees, heirs, and all others claiming under or through him.

[35 FR 9747, June 13, 1970]

Bureau of Land Management, Interior

§ 3833.0-1

Subparts 3826-3827 [Reserved]

Subpart 3831—Rights to Mineral Lands

PART 3830—LOCATION OF MINING CLAIMS

§3831.1 Manner of initiating rights under locations.

Subpart 3831—Rights to Mineral Lands

Sec.

3831.1 Manner of initiating rights under locations.

Subpart 3832—Who May Make Locations

3832.1 Qualifications.

Subpart 3833—Recordation of Mining Claims, Mill Sites, and Tunnel Sites and Payment of Service Charges; and Payment of Rental Fees

3833.0-1 Purpose.

3833.0-2 Objectives.

3833.0-3 Authority.

3833.0-5 Definitions.

3833.0-9 Information collection.

3833.1 Recordation of mining claims.

3833.1-1 Refundability of service charges, location fees, rental and maintenance fees.

3833.1-2 Recordation of mining claims, mill sites and tunnel sites located after October 21, 1976.

3833.1-3 Service charges, rental fees, maintenance fees, and location fees; form of remittance and acceptance.

3833.1-4 Service charges and location fees.

3833.1-5 Maintenance fees.

3833.1-6 Maintenance fee waiver qualifications under the Act of August 10, 1993, and other exceptions—applicable from 12 o'clock noon on September 1, 1993, until 12 o'clock noon September 1, 1999.

3833.1-7 Filing requirements for the maintenance fee waiver and other exceptions.

3833.2 Annual filings.

3833.2-1 National Park System lands.

3833.2-2 Other Federal lands.

3833.2-3 Consistency between the Federal Land Policy and Management Act, the General Mining Law of May 10, 1872, and the Act of August 10, 1993.

3833.2-4 Contents for evidence of assessment work.

3833.2-5 Contents for a notice of intention to hold claim or site.

3833.2-6 When evidence or notice is not required.

3833.3 Notice of transfer of interest.

3833.4 Failure to file, or to pay maintenance or location fees.

3833.5 Effect of recording and filing.

AUTHORITY: 30 U.S.C. 22 and 28; 43 U.S.C. 1201; 31 U.S.C. 9701; 16 U.S.C. 1901, 1907; 43 U.S.C. 1740 and 1744; 30 U.S.C. 242; 50 U.S.C. Appendix 565; 107 Stat. 60; 107 Stat. 405.

Rights to mineral lands, owned by the United States, are initiated by prospecting for minerals thereon, and, upon the discovery of minerals, by locating the lands upon which such discovery has been made. A location is made by (a) staking the corners of the claim, except placer claims described by legal subdivision where State law permits locations without marking the boundaries of the claims on the ground, (b) posting notice of location thereon, and (c) complying with the State laws, regarding the recording of the location in the county recorder's office, discovery work, etc. As supplemental to the United States mining laws there are State statutes relative to location, manner of recording of mining claims, etc., in the State, which should also be observed in the location of mining claims. Information as to State laws can be obtained locally or from State officials.

(See 38 FR 24650, Sept. 10, 1973)

Subpart 3832—Who May Make Locations

§3832.1 Qualifications.

Citizens of the United States, or those who have declared their intention to become such, including minors who have reached the age of discretion and corporations organized under the laws of any State, may make mining locations. Agents may make locations for qualified locators.

[35 FR 9750, June 13, 1970]

Subpart 3833—Recordation of Mining Claims, Mill Sites, and Tunnel Sites and Payment of Service Charges; and Payment of Rental Fees

§3833.0-1 Purpose.

The purpose of the regulations is to establish procedures for:

(a) The recordation in the proper BLM office of unpatented mining